

KCC Alert



Kentucky Conservation Committee, P.O. Box 1152, Frankfort, KY 40602

502-875-0909

Smart Growth Stagnates Help get it out of Committee

While the strong smart growth bill, HB465, failed in the House Local Government Committee, HB 600, the Governor's milder proposal, languishes without a hearing in the House Appropriations and Revenue Committee. Time is running out.

HB600, sponsored by Rep. Joe Barrows, directs the state government to follow smart growth principles and creates some tax incentives for redevelopment.

Specifically, it requires that all state agencies promote, assist, and pursue the rehabilitation of infrastructure, structures, sites and previously developed areas that are suitable for reuse. It also directs them to minimize unnecessary loss or depletion of agricultural, historic, and natural resources, or environmental quality in state siting and funding decisions. State agencies must also submit a finding of consistency with these rules to a state planning committee regarding siting and funding of state development

The state planning committee is a creation of this bill and is charged with overseeing the actions of state government and their consistency with smart growth principles, providing assistance to local planning organizations, and providing education on smart growth principles and best practices.

HB600 also requires the state to abide by local planning board decisions. It creates tax credits for the private redevelopment of run-down property and historic preservation. State projects affecting more than 50 acres of prime farmland are to be evaluated by state planning committee. Finally, HB 600 sets up a public hearing process to receive public input on state projects affected by this law.

Action: See "To Do" list above.

KCC To Do List:

- ❑ Ask Senators Harris and Kelly to move HB174 out of Committee and clean up Kentucky. (see "Don't Waste..." pg 1)
- ❑ Ask members of the Senate Ag & Natural Resources Committee (listed pg. 2) and Appropriation and Revenue Committee to support SB257 (Sen. Harris, Kelly & Sanders)(see "Merchant Power.." pg 3)
- ❑ Ask House Appropriation and Revenue Committee members to pass HB600, (see "Smart Growth.." pg1).
- ❑ Ask members of the House to oppose HB496 (the License to Pollute).
- ❑ Ask your State Representative to oppose HB618, limits Vehicle Emissions Testing to old cars.

Don't Waste Time, Garbage Bill Needs Your Help

HB 174, Greg Stumbo's solid waste bill that has the governor's backing, is now in the Senate before the Agriculture and Natural Resources Committee. Scheduled to be heard in committee on March 7, it did not come up for a vote.

After years of trying, legislation to begin to deal with Kentucky's garbage problems has emerged from the House. This is not a bottle bill, but it does accomplish many things and is worthy of strong support

HB174 imposes a ½ cent fee on fast food cups and other containers and a \$1/ton landfill tipping fee to pay for the cleanup of illegal dumps, the cleanup of roadside litter, the proper closure of old landfills, the implementation of Kentucky's Environmental Education Master Plan, and the acquisition of park land and natural areas.

It also provides incentives to counties for curbside collection programs and cleanup of illegal dumps. Counties are allowed to collect fees for curbside collection on their property tax bills. Solid waste coordinators are given enforcement authority for litter laws.

The fees are expected to raise \$30 million per year, an average of a little over \$3.00 per person. Tipping fees in Kentucky are currently \$5.00 per ton less than our neighbors, which encourages them to send their garbage here.

Status: We expect if it comes out of committee, that it will be reassigned to the Senate Appropriations and Revenue Committee to evaluate the fees. There is talk in the Senate about removing the fees, and instead, funding it from some other means. Senate members are afraid of being accused of raising taxes. We believe the funding mechanism should remain in place.

Increasing tipping fees beyond the proposed one-dollar has been proposed as an alternative but this would hurt local garbage services and encourage more illegal dumping. A proposed bond issue to cleanup closed landfills only addresses one aspect of the problem. Another proposal to use road contingency funds would be subject to economic fluctuations.

You can help get this bill passed. Spend just five minutes of your time and make a difference for a better future. Either make a phone call or send a fax to your Senator, to Senator Harris, the committee Chair, and Senator Kelly, the Majority Leader. Request a prompt hearing and favorable vote on the bill. Ask that the bill be approved with the funding mechanisms in place.

See the sample Fax on Pg. 2.

Key Committee Assignments

Senate Agriculture and Natural Resources

Ernie Harris, **Chair** (R), Vernie McGaha, **Vice Chair** (R), Paul Herron Jr (D), Daniel Kelly (R), Robert Leeper (R), Virgil Moore (R), Joey Pendleton (D), Ernesto Scorsone (D), Tim Shaughnessy (D), Elizabeth Tori (R), Ed Worley (D)

Senate State & Local Government

Albert Robinson, **Chair** (R), Alice Kerr, **Vice Chair** (R), Walter Blevins (D), Charlie Borders (R), David Boswell (D), Ernie Harris (R), Ed Miller (D), Ernesto Scorsone (D), Elizabeth Tori (R), Johnny Turner (D), David L. Williams (R)

House Agriculture and Small Business

Roger Thomas, **Chair** (D), Royce Adams, **Vice Chair** (D), John Arnold Jr., **Vice Chair** (D), William Scott, **Vice Chair** (D), Ken Upchurch, **Vice Chair** (R), Adrian Arnold (D), Sheldon Baugh (R), James Bruce (D), Dwight Butler (R), Mike Cherry (D), Phillip Childers (D), Jack Coleman (D), James Comer (R), Charlie Hoffman (D), Thomas McKee (D), Fred Nesler (D), Don Pasley (D), Dottie Sims (D), Gary Tapp (R), Mark Treesh (R), Tommy Turner (R)

House Appropriations and Revenue

Harry Moberly, **Chair** (D), Mike Cherry, **Vice Chair** (D), Robert Damron, **Vice Chair** (D), Bob DeWeese, **Vice Chair** (R), Bob Heleringer, **Vice Chair** (R), Joni Jenkins, **Vice Chair** (D), Robin L. Webb, **Vice Chair** (D), Royce Adams (D), Rocky Adkins (D), Joe Barrows (D), Dwight Butler (R), Jim Callahan (D), Larry Clark (D), Jack Coleman (D), Barbara White Colter (R), Jesse Crenshaw (D), Danny Ford (R), Jimmie Lee (D), Mary Lou Marzian (D), Thomas McKee (D), Lonnie Napier (R), Fred Nesler (D), Stephen Nunn (R), Charles Siler (R), John Will Stacy (D), Mark Treesh (R), John Vincent (R), Jim Wayne (D), Rob Wilkey (D)

House Natural Resources and Environment

James Gooch, **Chair** (D), Woody Allen, **Vice Chair** (R), Phillip Childers, **Vice Chair** (D), Keith Hall, **Vice Chair** (D), Rocky Adkins (D), Ira Branham (D), Scott Brinkman (R), Hubert Collins (D), Howard Cornett (R), Don Pasley (D), Tanya Pullin (D), Marie Rader (R), Jim Stewart (R), Johnnie Turner (R), Robin L. Webb (D), Brent Yonts (D)

KCC thanks **Plan Graphics**,
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Hushhhh: Water Quality is a Secret

HB367, a bill to keep Agricultural Water Quality plans out of view of the public was amended on the House floor and approved. It now resides in the Senate Ag. and Natural Resources Committee. The House floor amendment improved the bill somewhat. The amendment allows the plans to be reviewed by the Agricultural Water Quality Board, but they are still not open to inspection by the public. Oversight of compliance with the Ag. Water Quality Act is left strictly to state agencies.

Pine Mountain Trail State Park Scheduled in Committee

HB556 is on the agenda to be heard in the House Tourism, Development and Energy March 13. It would create the state's longest and narrowest state Park. If enacted, a roughly 1000ft corridor along the crest of Pine Mountain from Breaks/Interstate Park to Cumberland Gap would be designated as a future state park with a hiking trail for non-motorized use only. Access points and appropriate spur trails would also be established.

Contact committee members to move this bill, they are Chair Thomas Kerr, Phillip Childers, Jodie Haydon, Thomas McKee, Johnnie Turner, Royce Adams, Eddie Ballard, Carolyn Belcher, Brian Crall, J. R. Gray, Keith Hall, Brandon Smith, Ken Upchurch, Charles Walton, Robin L. Webb

Sample Fax for HB174:

Dear Senator X,

I am writing to encourage you to support HB174, the Solid Waste Bill, and to keep in place the original funding mechanisms. This is a reasonable and modest measure that will move Kentucky forward in dealing with some of its solid waste problems. The fees are so low that they will not be noticed by anyone, nor will they have any adverse economic impact. Industry lobbyists are clearly crying "wolf" on this issue.

This is an exciting opportunity to move toward a cleaner Kentucky and I strongly urge your support.

Sincerely,

The End Is Coming!

The last day to file new bills is behind us. March 29 is the last day to pass new bills. Soon any bills not already passed by one Chamber do not have a chance of making through the other.

Contacting Your Legislators

Who are my legislators? You can look up your legislators on the web at www.lrc.state.ky.us/whoswho/whoswho.htm or you can call your local county clerk. All they need is your address.

How do I communicate with them? There are several ways to communicate.

The legislative message line will get you an operator who will write down a message for you, no questions asked. Use the number listed under Legislative Message line in our phone number box. Call 8:00 AM to 11:00 pm.

You can send a fax, the number is listed here. A fax can be sent to multiple legislators, you must list all names individually.

Many legislators have email. They can be found from the web address listed above. Some legislators respond, some do not.

Regular mail can be sent to The Capitol Annex, Frankfort, KY 40601.

What do I say? Your message can be as simple as "Please support bill xyz." You don't have to be an expert. Personal experiences that relate can be effective.

Legislative Information On the Internet

The Bill summaries, status, the full text of all filed bills, the legislative calendar, the orders of the day, legislators' email addresses, and more (updated daily) are available on the Legislative Research Commission's Web Site. <http://www.lrc.state.ky.us/home.htm>

Important Legislative Phone Numbers

Legislator Message Line: 1-800-372-7181

To talk to a legislator: 1-502-564-8100

Bill Status Line: 1-800-776-9158

Committee Calendar Line: 1-800-633-9650

Governor Paul Patton: 502-564-2611

Secretary James Bickford: 502-564-3350

Legislator Fax line: 502-564-6543

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Merchant Power Plant Controls Electrified

HB540, a bill to regulate the impacts of siting new power plants, passed the House, thanks to your help. Meanwhile in the Senate, Ernie Harris has introduced an improved version of that bill, SB 257, which addresses some of the weaknesses we described in the Feb. 25 Alert. Back in the House, Appropriations and Revenue Committee Chair Harry Moberly has proposed taxing merchant plants. The power plant issue is starting to light up the legislature.

Welcome Improvements: The improvements to SB257 over HB540 include a permanent citizen member on the siting approval Board in addition to a site-specific citizen member appointed by the local mayor or county-judge. SB257 requires consideration of the impacts of special wastes, a category into which many utility wastes fall. It removes special exemptions from setbacks in HB 540 designed to favor one company. The new bill requires evaluation of the applicant's financial, technical and managerial capability. It specifies that coal-fired merchant plants must comply with the act. Importantly, Harris's version narrows the definition of construction to eliminate ceremonial dirt turning as being considered construction. SB257 requires automatic hearings in counties with no zoning. It leaves regulated utility plants under the jurisdiction of the Public Service Commission (PSC) while giving meaning to the PSC review of "environmental compatibility."

Making it Stronger: Still, with these improvements there is room to make it better. The bill should apply to any facility that has not received all permits and has not begun a continuous course of construction to stem efforts to skirt the law by engaging in construction between now and the effective date of the act. It should assure that all merchant plants are subject to and must comply with planning and zoning. SB257 should subject the siting of unregulated transmission lines to the same approval criteria as the plants themselves. The current bills focus only on scenic and environmental aspects of power lines.

Importantly, the bill should require submittal to the Environmental Protection Cabinet the equivalent of an Environmental Impact Statement. A finding of environmental compatibility should require that all identified impacts have been mitigated at the plant's property boundary. It is inadequate to rely on arbitrary setbacks and use of other's property to create a buffer for plants.

That environmental impact statement should include alternatives analysis demonstrating co-location at or near existing sites is infeasible and that no other technologies and investments (including demand-side controls) would satisfy the project purposes with less impact.

Additionally, the applicant should be required to demonstrate that it possesses or has the financial capacity to obtain the necessary allowances for nitrogen and sulfur oxide emissions. New emissions of ozone-precursor compounds and air toxics should be offset by enforceable credits obtained from existing sources.

Noise modeling should be used to demonstrate that the noise levels at the property boundary do not exceed appropriate peak and average levels.

Cumulative effects should be evaluated, even on "minor" pollutant sources, to prevent companies from building multiple small units to escape review. Best Available Control Technology should be required because simple annual pollution caps allow merchant plants to emit their total annual in the three month air conditioning season.

Finally, public notice and hearings on the permits should be provided in all cases. Siting Board approval should sunset so that if construction has not begun in earnest within eighteen months after approval, the certificate will lapse.

Take Action: Ask members of the Senate Ag & Natural Resources Committee (listed pg. 2) to support HB257. Suggest that strengthening is needed.

Bill analysis provided by Tom FitzGerald

Campaign Finance Reform Resurfaces in Senate

Senator Walter Blevins, Jr. introduced a Clean Election Bill in the Senate. SB 284 is identical to HB 355, introduced by Rep. Jim Wayne, which was not called up for a vote in the House Elections, Constitutional Amendments and Intergovernmental Affairs Committee. The bill calls for voluntary public financing of state legislator campaigns. Sponsors are needed. If your Senator is a potential sponsor, please ask him/her to consider co-sponsoring SB284

Kentucky River Authority Fee Cut

HB 714, a bill to prevent the Kentucky River Authority from levying water withdrawal fees on the City of Danville has been introduced by Rep. J. Bowling. This is the latest salvo in a long fight by the city of Danville, to escape the fees used for river maintenance and improvements. Danville gets its water from Lake Herrington, a tributary to the Kentucky River. The bill flew out of committee and is posted for passage in the House.

License to Pollute

HB 496, sponsored by Rep. Jim Gooch, was recommended to the House Appropriations and Revenue Committee. Usually this means a bill is dead, but our sources indicate it may yet live again in a slightly different form.

It is the most dangerous and irresponsible bill filed this session. HB496 requires the Natural Resources Cabinet to issue a preliminary written notice to violators of state air, waste and water laws and allow them time to correct the violation before issuing of a Notice of Violation (NOV).

This "kinder and gentler" Government amounts to an illegal and improper default variance for violators of state environmental laws. It allows pollution without penalty and interferes with enforcement of standards designed to protect health and the environment by actually inviting pollution.

The sponsor's stated intent is to get the Cabinet off the back of "small business". The real way to help small business is to provide technical assistance in meeting the environmental laws.

Action: Ask the members of the House Appropriation and Revenue Committee to keep the bill locked up in committee.

Bill Summaries and KCC Position

Bill No	Position	Sponsor	Summary	Status
HJR24	Monitor	Moberly	Create a subcommittee to study the production of ethanol before 2003.	Sen. Ag & Natural Resources
HCR109	Monitor	Barrows	Encourage KY Heritage Com. to log rock fences that merit preserving	Sen. Ag & Natural Resources
HJR139	Support	Bather	Stop issuing env. permits in west Louisville until 9/02, do risk assess.	House Nat Resources & Env.
HCR161	Support	Pasley, Comer	Est. off-road Vehicle Task Force to study use on public & private land	House Transportation
HB28	Strong Support	L.Clark	Require counties cleanup all open dumps or implement mandatory curbside waste collection system by January 2004,	House Natural Resources and Environment
HB40	Support	Tapp, Arnold	Require federally mandated sulfur reductions be accomplished by blending at least 2% biodiesel; study biodiesel during 2005 interim	Senate Ag & Nat, Resources
HB46	Monitor	Marcotte	Exempt cars 4 model years and younger from VET testing	House Transportation
HB48	Support	Riggs	Require hearings on local indebtedness & set criteria for denial of bond issue, replace appeal to State Debt Comm. w/ appeals to Circuit Crt	Senate Judiciary
HB64	Support	Damron	Adopt Interstate Wildlife Violator Compact: reciprocal agreements to enforce hunting violations and revoking hunting privileges	House Elections, Const Amend. & Intergov. Affairs
HB75	Oppose	Belcher	Remove sewage plants owned by fiscal courts from PSC control	House 2 nd Reading
HB118	Support	Marcotte	Persons applying for a permit to mine any mineral except coal to obtain an ordinance from county fiscal court that states that county road conditions will not be degraded by the increased truck traffic	House Natural Resources and Environment
HB137	Oppose	Gooch	Amend constitution to exempt unmined minerals from property tax.	House Elections and Const.
HB174	Strong Support	Stumbo, et al	½ cent fee on beverage containers plus \$1/ton tipping fee to fund dump cleanup, dump closures, Env. Ed. Master Plan, roadside cleanup, anti-litter program, cnty solid waste coordinators. Cnties must have universal collection or all dumps closed to get \$\$.	Senate Ag & Natural Resources
HB214	Support	Riggs	Expands energy efficiency requirements to leased buildings. Creates revolving loan fund to pay for efficiency improvements. Allows state to enter into guaranteed energy saving contracts (see SB61)	House State Government
HB 244	Strong Support	Wilkey	Extends sunset of the hazardous waste assessment fund used for superfund cleanup and pollution prevention assistance to 2004.	To Governor
HB275	Oppose	Gooch	Reallocates 5% to 8% of the all NOx credits to new power plants in 2004, with 5% thereafter. 10% set aside for "efficient energy" sources.	House Natural Resources and Environment
HB317	Monitor	Kerr	Exclude farm trucks from vehicle emission control programs	Posted House Local Gov.
HB319	Support	Arnold et. al.	Require state agencies give KY-grown & labeled food 5% preference.	Senate
HB323	Strong Support	Stumbo	Amend Constitution to allow a referendum on container deposits.	House Elections, etc.
HB355	Strong Support	Wayne	Voluntary public funding for General Assembly candidates See SB284	House Elections, etc
HB367	Strong Oppose	Gooch, et.al.	Documents filed under the Ag. Water Quality Act to be confidential, Ag Water Quality Authority exempt.	Senate Ag & Nat. Resources
HB405	Oppose	Turner, et. al.	Construction related coal mining under 5000 tons where coal or proceeds are donated to nonprofit orgs exempted from permitting.	House Rules
HB408	Strong Oppose	Gooch	Rellocate NOx credits from early reductions to sources unable to meet compliance deadlines	Recommitted to House Nat Res & Env.
HB422	Strong Support	Pasely, et.al.	Extend waste tire fee to July 2006 and allow a tire amnesty program	To Governor
HB460	Support	Bratcher	Allow monetary claims for victims of airport noise	Posted House Judiciary
HB465	Strong Support	Wayne, et al.	Require local Gov develop land use plans, define areas for future growth, prohibit the extension of sewer/water lines outside them	Failed in House Local Gov.
HB496	Strong Oppose	Gooch	Calls for preliminary notice of alleged environmental violations and 45 days for said violation to be remedied	Recommitted to House Approp. & Revenue
HB507	Under Review	Moberly, et. al.	State Budget (see SB144)	
HB540	Support	Draud	Est. KY State Board to regulate the siting of merchant power plants and transmission facilities. Needs strengthening.	Senate Ag & Nat Resources
HB542	Monitor	Yonts	Income tax credits for the value-added hardwood products industry	House Rules.
HB556	Support	Hall	Establish the Pine Mountain Trail State Park (See SB158)	Posted House Tour. & Energy
HB575	Oppose	Brinkman	Allows contamination of recyclable plastic & harm recycling efforts.	Posted House Nat Res & Env
HB586	Support	Wilkey	Require reporting of personal contributions to campaigns	Senate
HB598	Support	Riggs, et al	Transfer regulation of the siting of cell phone towers from the PSC to any county with zoning and planning	House Posted for passage 3/7
HB600	Strong Support	Barrows	State government to follow Smart Growth principles, help local gov w/planning, tax incentives for redevelopment and preservation. Oversight committee should include non-state officials	House Approp & Revenue

HB606	Support	Callahan, et.al.	Tax credit for expenses paid to rehabilitate a certified historic structure.	House Approp & Revenue
HB618	Oppose	Clark, et al	VET program limited to cars 6 years old or older to be tested on a biennial basis; require fee increases to be limited to inflation rate	House Floor 2 nd Reading
HB646	Oppose	Smith, et.al.	Excess coal severance and processing taxes to fund grants to coal counties for water and sewer lines and sewage treatment facilities.	House Appropriation and Revenue
HB654	Support	Denham, et.al.	Create an office of Agritourism to encourage visitors to working farms	Senate
HB694	Support	Stewart	Allow county solid waste coordinators to enforce litter laws	Posted House Local Gov.
HB708	Monitor	Thomas, Bruce	Ban MTBE by January 1, 2006; encourage reformulated gas to replace MTBE with ethanol by that date	House Floor 2 nd Reading
HB714	Oppose	Bowling, et.al.	Limit the Kentucky River Authority's authority to assess water use fees	House Posted for passage 3/6
HB738	Strong Support	Gooch	Eliminate exemption of power plants from water withdrawal permitting	House Nat Res & Env.
HB739	Monitor	Rasche	Exempt joint sewer agencies from a uniform rate requirement when local conditions warrant for a period not exceeding ten years	House Floor, 2nd reading
HB752	Monitor	Branham	Authorize PSC to designate long haul water lines that can be tapped in case of emergency.	House Tourism Development and Energy
HB790	Oppose	Gooch	PSC to encourage clean coal & discourage natural gas for new power plants in" certificate of need " deliberations.	House Tourism Development and Energy
HB791	Strong Oppose	Geveden	Abolishes the Interagency Farmland Advisory Committee that reviews any project converting over 50 acres of farmland	Posted House State Gov.
HB797	Support	Barrows	Income tax credit of 1/2 property value for land given to an eligible conservation agency, Max \$100,000/person and \$2 million total/year	House Appropriation and Revenue
HB798	Oppose	Childers, Hall, Smith, Cornett	Allow coal operators to pay into a fund for stream mitigation in lieu of physical mitigation	House Nat. Resources & Env. Posting waived.
HB809	Monitor	Childers, Turner	Allow coal operator under an NOV for imminent danger to gain access to lands necessary to abate problem, and if not imminent to gain access after a property appraisal is conducted	House Floor 2 st Reading
HB841	Oppose	Pullin, Palumbo	Require all agencies regulating small businesses to provide for the reduction or waiver of civil penalties	Posted House Economic Development
HB854	Support w/ amend	Branham	Require that all properties with an occupied building maintain an onsite sewer system or be connected to a sewer system. Imposes penalties.	House Local Government
HB864	Support	Moberly	Tax on merchant power plants.	House Approp & Revenue
HB871	Monitor	Webb	Constitution Amend. ensuring the right to hunt, fish, and harvest game.	House Elections, etc
SCR17	Support	Guthrie	Create task force to study managing water supply on a watershed basis.	In Sen for Concurrence w/House
SCR92	Support	Kerr, et al	Create a task force to study the Lexington/Big Sandy Rail Trail	House
SB13	Support	Jackson	Pilot project with State Parks to buy KY-grown & labeled ag products	Posted House Ag & Small Bus
SB21	Oppose	Adams	10-year tax credit on 10% of capital costs for new companies that mine or process coal	Senate Ag. and Nat Resources
SB34	Monitor	Harris	Anti-litter education program & tax check off to fund it	Recommitted Sen Apro & R
SB61	Support	Sanders	Expands energy efficiency requirements to leased buildings. Creates revolving loan fund to pay for efficiency improvements. Allows state to enter into guaranteed energy saving contracts (see HB214)	To Governor
SB72	Strong Support	Westwood	Tax credits for certain rehabilitation/restoration projects	Recommitted Senate A&R
SB102	Strong Oppose	Seum	Requires meeting ozone standards without vehicle emissions tests.	House Local Gov.
SB144		Sanders	State Budget (see HB507)	
SB158	Support	Jones, et al	Establish Pine Mountain Trail State Park (see HB556)	Senate Approp & Revenue
SB169	Monitor	Roeding, etc	Gov. registered vehicles to be VET tested biennially rather than yearly.	Senate Floor 2nd reading
SB193	Strong Oppose	Sanders	Raids the Petroleum Storage Tank Environmental Assessment fund & study cleanup standards.	Senate Floor 2nd reading
SB237	Support	Leeper	Include strategic planning and the ranking of capital projects for public transit and create a new Public Transit Advisory Commission;	Senate Approp & Revenue
SB257	Support	Harris	Establish board to regulate the siting of merchant power plants, require plant to pay for upgrading transmission lines. (Improves HB540)	Senate Ag and Natural Resources
SB284	Strong Support	Blevins	Voluntary public funding for General Assembly candidates See HB355	
SB287	Oppose	Mongiardo	Exclude waste-to-energy facility from permit required for tire burning.	

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Internet Access of the Alert

Sierra Club graciously posts the Alert on their web site, go to <http://kentucky.sierraclub.org/alert/billsummary.htm>

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